

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Squad #11	CCRB Case #: 201605116	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury		
Incident Date(s) Monday, 06/13/2016 3:39 PM	Location of Incident: Greenwich Avenue and West 10th Street		Precinct: 06	18 Mo. SOL 12/13/2017	EO SOL 12/13/2017
Date/Time CV Reported Tue, 06/14/2016 12:13 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/14/2016 12:13 PM		

[illegible][illegible]

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Gregory Abbott	01129	903312	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gregory Abbott	Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT Gregory Abbott	Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
C.SGT Gregory Abbott	Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
D.SGT Gregory Abbott	Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

§ 87(2)(g)

On June 14, 2016, § 87(2)(b) called the CCRB and filed this complaint, although he did not personally witness the incident. Subsequently, 21 individuals filed the same complaint with the CCRB, three of whom reportedly witnessed the incident first-hand.

On June 13, 2016, at approximately 3:39 p.m., § 87(2)(b) who was never interviewed by the CCRB, was riding north on a bicycle on Greenwich Avenue in the vicinity of West 10th Street in Manhattan, along with three of his friends: § 87(2)(b) and § 87(2)(b). An off-duty member-of-service dressed in civilian clothing, Sgt. Gregory Abbott of the 6th Precinct, was driving his personal vehicle, a silver 2010 Honda Insight, in the same area. § 87(2)(b) did not know that Sgt. Abbott was a member-of-service.

§ 87(2)(b) alleged that Sgt. Abbott cut him off with his vehicle, which forced § 87(2)(b) to close Sgt. Abbott's passengers side-view mirror in order to squeeze between Sgt. Abbott's vehicle on his left and a parked vehicle on his right. § 87(2)(b) yelled at Sgt. Abbott, announcing his presence. After passing by Sgt. Abbott's vehicle, § 87(2)(b) looked behind him to check on his three friends. § 87(2)(b) saw Sgt. Abbott motion for him to approach his vehicle. § 87(2)(b) stopped, set his bicycle on the ground, and began walking towards Sgt. Abbott.

As § 87(2)(b) walked towards Sgt. Abbott, Sgt. Abbott exited his vehicle and began walking towards § 87(2)(b) with his hand in his pocket. § 87(2)(b) reached into one of his pockets to retrieve his cell phone, when one of § 87(2)(b)'s bicycle tools fell to the ground. When § 87(2)(b) reached down to pick up the tool, Sgt. Abbott pulled out a gun and pointed it at § 87(2)(b) (**Allegation A**). § 87(2)(b) alleged that for the first few seconds the gun was drawn, Sgt. Abbott also oscillated pointing the gun between him, § 87(2)(b) and § 87(2)(b) (**Allegations B through D**).

This case has video evidence, Snagit copies of which have been placed below. The original videos may be found at Board Reviews 19 and 20, and summaries of these videos may be found at Board Reviews 21 and 22.

§ 87(2)(b)'s cell phone video:



201605116_20160623_1604_DM.mp4

§ 87(2)(b) security camera video footage:



201605116_20160912_1747_DM.mp4

§ 87(2)(b) was arrested as a result of the incident, and he was charged with three misdemeanors and one violation: criminal mischief in the fourth degree; criminal possession of a weapon in the fourth degree; menacing in the third degree; and harassment in the second degree. § 87(2)(b) was ultimately released with a Desk Appearance Ticket (DAT). § 87(2)(b)

Mediation, Civil and Criminal Histories

- § 87(2)(b), § 87(2)(g)
- § 87(2)(b) has not been criminally convicted in New York City in the last 10 years (Board Review 01).
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- A Notice of Claim inquiry was submitted with the New York City Comptroller's Office on September 12, 2016 (Board Review 05). The results will be added to the case file upon receipt.

Civilian and Officer CCRB Histories

- Of the 26 complainants and victims in this case, 20 of them have never previously been involved in a CCRB complaint, including § 87(2)(b) (Board Review 06).
- Sgt. Abbott has been a member-of-service for 23 years, and he has been the subject of 12 previous CCRB allegations, none of which were substantiated or § 87(2)(g)

Potential Issues

- § 87(2)(b) did not cooperate in providing a statement to the CCRB, despite extensive efforts (see Investigative Actions), § 87(2)(b), § 87(2)(g)
- Neither § 87(2)(b) nor § 87(2)(b) provided a sworn statement to the CCRB, despite multiple efforts (see Investigative Actions).
- § 87(2)(g)

Findings and Recommendations

Allegation A – Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b)

It is undisputed that on June 13, 2016, Sgt. Abbott was driving his personal vehicle north-bound on Greenwich Avenue in Manhattan, near the intersection of West 10th Street. Sgt. Abbott (Board Review 10) acknowledged that his vehicle was jutting east of the demarcated driving lane on Greenwich Avenue. It is further undisputed that § 87(2)(b) was riding his bicycle north-bound on Greenwich Avenue, on the east side of the avenue, and that he rode his bicycle past Sgt. Abbott's vehicle.

Sgt. Abbott was dressed in plainclothes. There was no police insignia on Sgt. Abbott's clothing or vehicle. Sgt. Abbott had his police shield in one of his zippered shorts pockets and his off-duty firearm, a silver pistol, in a holster in his front right shorts pocket.

Sgt. Abbott testified that he was familiar with the area of Greenwich Avenue and West 10th Street at the time of the incident, indicating that he was aware that there were restaurants, a firehouse, and a school in the immediate area.

Although § 87(2)(b) was uncooperative with the investigation (see 'Potential Issues' section above), he emailed a statement regarding this incident to § 87(2)(b) which was published in an article the day after the incident. § 87(2)(b) article indicates that § 87(2)(b) stated that as he bicycled by Sgt. Abbott's vehicle, he moved the passengers side-view mirror closed, and as he past it, he re-opened it. The article further indicates that § 87(2)(b) reported that he looked back to check on his three friends and fellow § 87(2)(b) and § 87(2)(b) when he noticed Sgt. Abbott make a hand motion which led him to walk towards Sgt. Abbott to see what the problem was. § 87(2)(b) corroborated this, saying that Sgt. Abbott twice motioned for § 87(2)(b) to approach him. Sgt. Abbott testified that he did not recall if he made any gestures to § 87(2)(b).

§ 87(2)(b) stopped his bicycle and set it on the ground. Sgt. Abbott estimated that § 87(2)(b) was approximately four to five car lengths away from him. It is undisputed that Sgt. Abbott remained seated inside his car, which was stationary on Greenwich Avenue.

Sgt. Abbott testified that § 87(2)(b) yelled at him something to the effect of, "Motherfucker, I'm going to kill you." § 87(2)(b) (Board Review 11) denied that § 87(2)(b) made any verbal threat to Sgt. Abbott. § 87(2)(b)'s reported verbal threat was not corroborated by any civilian interviewed by the CCRB, nor did any of the 18 individuals who called 911 regarding this incident report that § 87(2)(b) made any verbal threats (Board Review 12). § 87(2)(b) article makes no mention of the alleged verbal threat to Sgt. Abbott.

Sgt. Abbott testified that as § 87(2)(b) walked towards him, § 87(2)(b) began to reach inside one of his pockets. As per § 87(2)(b) article, § 87(2)(b) acknowledged reaching into one of his pockets, looking for his cell phone, but only after Sgt. Abbott stepped out of his vehicle. Sgt. Abbott testified that he stepped out of his vehicle after § 87(2)(b) was reaching into his pocket, because he did not know what § 87(2)(b) was reaching for, and he did not want to be at a tactical disadvantage, should § 87(2)(b) be retrieving a gun. Sgt. Abbott indicated that he stepped out of his vehicle, bladed his body, put his hand in his shorts pocket to be ready to draw his gun, and watched to see what, if anything, § 87(2)(b) would remove from his pocket. Sgt. Abbott testified that he "presumed" § 87(2)(b) was going to "come out" with a weapon.

Sgt. Abbott testified that § 87(2)(b) removed from one his shorts pockets a six to eight inch metal object that appeared to be a rock hammer. Sgt. Abbott testified that § 87(2)(b) was approximately one car length away from him, and that § 87(2)(b) held the hammer at about waist level and gestured it forward, asking, "You want some of this?"

Each of the seven civilians interviewed by the CCRB who reported that they witnessed this portion of the incident indicated that § 87(2)(b) did not have anything in either hand as he approached Sgt. Abbott. None of the 18 individuals who called 911 indicated that § 87(2)(b) had a hammer, other weapon, or any other item in either hand. As per § 87(2)(b) article, § 87(2)(b) indicated that as he reached for his cell phone, an unspecified bicycle tool fell to the ground, but he did not acknowledge having a hammer or any other object in his hand.

Sgt. Abbott testified that as soon as he saw § 87(2)(b) retrieve the rock hammer, he pulled out his gun and pointed it at § 87(2)(b) while simultaneously telling § 87(2)(b) “Police, don’t move.” Sgt. Abbott testified that he had not said anything to § 87(2)(b) prior to this. Sgt. Abbott testified that he did not say anything to § 87(2)(b) prior to pulling out his gun because the incident was happening quickly, and because § 87(2)(b) had not committed any crime until § 87(2)(b) threatened him with the hammer. Sgt. Abbott testified that he did not produce his police shield, because the incident was happening quickly.

Sgt. Abbott testified that he did not notice if any civilians were in the area because he was focused on § 87(2)(b) but that generally, the conditions appeared normal for the area.

Sgt. Abbott testified that he had his gun drawn for approximately one minute, and that with the exception of a few seconds when the gun was pointed down, the gun was pointed at § 87(2)(b) that entire time. Sgt. Abbott indicated that he pointed his gun at § 87(2)(b) because § 87(2)(b) had threatened him verbally and was approaching him with a weapon, and Sgt. Abbott was concerned for his life and safety.

It is undisputed that § 87(2)(b) immediately stopped after Sgt. Abbott pointed the gun at him. Sgt. Abbott testified that § 87(2)(b) dropped the hammer and lay flat on the ground a few feet away from him. Sgt. Abbott testified that § 87(2)(b) and § 87(2)(b) approached him and began yelling at him. Sgt. Abbott testified that one of these three individuals stepped on the hammer, and then over it, at which point Sgt. Abbott lost sight of the hammer. Sgt. Abbott indicated that he never again saw the hammer.

Sgt. Abbott put his gun back in his pocket before § 87(2)(b) was apprehended. Sgt. Abbott testified that he put his gun away after approximately one minute, because he did not see a weapon in § 87(2)(b)’s hands, or in any civilian’s hands, and therefore, there was no longer an imminent threat to him. Sgt. Abbott testified that he did not know for a fact whether § 87(2)(b) had the weapon in his possession when he put his gun away, and that § 87(2)(b) was still standing within a few feet of him when he did this.

Video footage shows that the incident occurred on a sunny day and that there was both vehicular and pedestrian traffic present. When Sgt. Abbott pulled out his gun, civilians in the area began running and screaming. At a local elementary school, P.S. 41, a temporary lock-down was implemented because of a reported gunman (Sgt. Abbott). Eighteen calls to 911 were placed regarding this incident, the substance of which concerned a man with a gun. No 911 caller indicated that they were aware that Sgt. Abbott was a member-of-service.

No hammer was vouchered in connection with § 87(2)(b)’s arrest (Board Review 23). Sgt. Abbott indicated that he believed that someone—§ 87(2)(b) or § 87(2)(b)—picked the hammer up during the incident.

Three civilians provided sworn statements to the CCRB—one of the four bicylists, § 87(2)(b), and two witnesses with no known connection to the bicyclists or Sgt. Abbott and who filed this complaint with the CCRB, § 87(2)(b) (Board Review 14) and § 87(2)(b) (Board Review 15)—and none of them indicated that § 87(2)(b) made a verbal threat to Sgt. Abbott. Four additional civilians (Board Reviews 13, 17, 24, and 25) provided telephone

statements to the CCRB, and none of them indicated that § 87(2)(b) made a verbal threat to Sgt. Abbott.

To justifiably point his gun, an officer must possess an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Section 221-01 (Board Review 16).

The basic elements of this incident are not in dispute: § 87(2)(b) made contact with Sgt. Abbott's passengers side-view mirror as he bicycled past it; § 87(2)(b) set his bicycle down and began walking towards Sgt. Abbott's vehicle; and when § 87(2)(b) was approximately one car length away from Sgt. Abbott, Sgt. Abbott pulled out his gun and pointed it at § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Allegation B – Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b)

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Allegation C – Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b)

Allegation D – Force: Sergeant Gregory Abbott pointed his gun at § 87(2)(b)

§ 87(2)(b) alleged that when Sgt. Abbott initially pulled out his gun, for a few seconds, he oscillated pointing the gun between him, § 87(2)(b) and § 87(2)(b). Sgt. Abbott denied pointing his gun at anyone other than § 87(2)(b).

§ 87(2)(b) (Board Review 17) solely provided a telephone statement to the CCRB, during which he indicated that Sgt. Abbott immediately pointed the gun at § 87(2)(b). § 87(2)(b) did not indicate that Sgt. Abbott ever pointed the gun at him or anyone else. Although most of the 911 callers did not specify who Sgt. Abbott was pointing his gun at—they solely indicated that there was a man with a gun—none of them indicated that they saw Sgt. Abbott pointing his gun at more than one person. None of the civilians interviewed by the CCRB, aside from § 87(2)(b), indicated that Sgt. Abbott pointed his gun at anyone aside from § 87(2)(b). § 87(2)(b) testified that for the first 10 seconds Sgt. Abbott drew his gun, he solely pointed it at § 87(2)(b) and that he did not ever see Sgt. Abbott point his gun at anyone else.

§ 87(2)(b), § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date